

A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See 86 Ill. Adm. Code 130.310(c). (This is a GIL).

June 24, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 31, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

After undergoing a recent sales tax audit I was hoping that you could shed some insight on some questions that arose during this audit. A few items that were changed from the 1% rate to the higher 6.25% rate are as follows: 1) Fluorn. 2) Reveyes. 3) Procaine. These items are used for patient comfort during medical diagnostic procedures and some are for medical diagnostic procedures. These items would normally require a prescription to obtain and are used only in our office.

In speaking to the auditor we were informed that the list of medical supplies has not been updated in years and some items required the auditor to use discretion. For our future accounting purposes could you please forward any information or provide insight as to how we should regard some of the medications that we use in our office.

Thank you for your time and attention to his matter.

Without further information about the products, it is difficult at best for the Department to answer your question directly. For general information purposes, 86 Ill. Adm. Code 130.310 would apply to all or certain medicines used by ABC for tax liability purposes. Prescription and non-

prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, insulin, urine testing utensils, syringes, and needles used by diabetics, for human use, enjoy a reduced tax rate of 1%.

A medicine or drug is any pill, powder, potion, salve, or other preparation *intended by the manufacturer for human use and which purports on the label* to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See 86 Ill. Adm. Code 130.310(c).

Examples of medicinal claims that *will qualify* the product for the low rate of tax include, but are not limited to:

- i) medicated
- ii) heals (a medical condition)
- iii) cures (a medical condition)
- iv) for relief (of a medical condition)
- v) fights infection
- vi) stops pain
- vii) relief from poison ivy or poison oak
- viii) relieves itching, cracking, burning
- ix) a soaking aid for sprains and bruises
- x) relieves muscular aches and pains
- xi) cures athlete's foot
- xii) relieves skin irritation, chafing, heat rash and diaper rash
- xiii) relief from the pain of sunburn
- xiv) soothes pain

Please note the use of the terms "antiseptic," "antibacterial" or "kills germs" may or may not constitute a medicinal claim. The use of these terms in conjunction with a claim that the product kills germs in general does not constitute a medicinal claim. However, a claim that a product is for use as an antiseptic to kill germs to prevent infection in cuts, scrapes, abrasions and burns does constitute a medicinal claim.

Examples of claims that *do not* constitute medicinal claims include, but are not limited to:

- i) cools
- ii) absorbs wetness that can breed fungus
- iii) deodorant, or destroys odors
- iv) moisturizes
- v) freshens breath
- vi) antiperspirant
- vii) sunscreen
- viii) prevents
- ix) protects

All lip balms qualify for the reduced rate of tax because the word "balm" is defined as a healing ointment or a preparation that relieves pain. Supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. Sterile dressings, bandages and gauze do qualify for the reduced rate. Diapers for incontinent adults, as well as undergarments for incontinent adults, qualify for the low rate of tax. See 86 Ill. Adm. Code 130.310(c) et al. In addition, please refer to general

information letter ST-92-0664 which may aid in your determination on the taxability of certain medicines. This letter may be found on the Department's web site listed below.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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